Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	MM Docket No. 93-254
Limitations on Commercial Time on	)	
Television Broadcast Stations	)	

TO: The Commission

Comments of the National Association of Broadcasters

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Summary

The National Association of Broadcasters ("NAB") opposes reimposition of any rules or processing guidelines governing the commercial practices of broadcast television stations. The Commission has not asserted any basis for changing the conclusion it reached in 1984 that marketplace forces would protect the public from excess commercialization. Without evidence demonstrating that deregulation has not worked, the Commission cannot adopt new rules.

New commercialization limits should also be avoided because they would impair broadcast stations' ability to compete in the market, while their competitors would be free of any regulation of their advertising sales. In the 1992 Cable Act, Congress attempted to rectify a regulatory imbalance favoring cable over broadcast television. The Commission should not establish a new regime favoring cable.

Singling out commercial speech on television stations for regulation would also violate the First Amendment. It is now beyond doubt that commercial speech is protected by the First Amendment. The Commission cannot impose a disparate regulatory regime for commercial messages on the basis of their content. Indeed, broadcast advertising serves a particularly important public purpose because it provides virtually the sole revenue source for over-the-air stations.

The predictions the Commission made in 1984 have proven accurate; market forces have controlled the amount of advertising during most programming, and deregulation has encouraged the development of innovative forms of advertising on broadcast stations. The development of "infomercials" has advanced the public interest by providing consumers with more information about product choices than they could obtain through

other advertising media. The Commission has already concluded that stations programming home shopping presentations serve the public interest, and such stations focusing on the interests of a smaller audience are precisely the type of innovative service the Commission hoped to encourage when it deregulated television.

Finally, regulation of television stations' commercial practices would necessitate burdensome new requirements for both the Commission and licensees. Not only would logs have to be kept, but the Commission would be drawn into numerous difficult, content-based determinations concerning how different programs should be recorded. Such intrusive and difficult regulatory burdens should only be considered on the basis of an extraordinary showing that the public interest is not being served by the Commission's current regulatory structure. No such showing has been or could be made in this proceeding.

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The National Association of Broadcasters ("NAB")[1] submits these comments in response to the Commission's *Notice of Inquiry* in this proceeding.[2] NAB opposes the reimposition of any limits on the amount of time which a television station can devote to commercial speech. The Commission's 1984 decision to abandon regulation of the commercialization practices of television stations has been successful in encouraging the creation of a variety of innovative program forms which provide valued services to the public. *Television Deregulation*, 98 FCC 2d 1076 (1984), *recon. denied*, 100 FCC 2d 357 (1986), *aff'd in relevant part sub nom. Action for Children's Television v. FCC*, 821 F.2d 741 (D.C. Cir. 1987). There is no basis for reversing that decision now.

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1 NAB is a nonprofit, incorporated association of radio and television stations and networks which serves and represents the American broadcasting industry.

2 On November 22, 1993, the Chief of the Mass Media Bureau extended the time for filing comments until December 20, 1993.

I. The Commission Has No Grounds for Reimposing Limits on Television Stations' Commercial Practices

In *Television Deregulation*, the Commission concluded that market forces would function as or more effectively than regulation to control excess commercialization on television stations. The Commission reasoned that viewers would turn away from stations with excess commercial loads and instead view stations which offered a higher percentage of other programming. 98 FCC 2d at 1105.[3] The *Notice of Inquiry* does not suggest that the Commission has any evidence that its expectations have not been met; that commercial loading on television stations is not controlled by market forces; or that the public interest has been harmed in any sense by the commercial practices of broadcast television stations.

The Commission, of course, cannot regulate in a vacuum, or because of an abstract notion of public good. If it is to reimpose regulation on broadcast television commercial practices, the Commission must identify what harm to the public interest is being caused by the absence of a rule. *See Bowen v. American Hospital Association*, 476 U.S. 610, 643-45 (1986)(agency decisions must be supported by evidence of the factual basis underlying the agency's action); *Motor Vehicle Manufacturers Association v. State Farm Mutual Insurance Co.*, 463 U.S. 29, 57 (1983)(agency changing its view of the public interest must provide a reasoned analysis supporting the change); *Greater Boston Television Corp. v. FCC*, 444 F.2d 841, 852 (D.C. Cir. 1970), *cert. denied*, 403 U.S. 923

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[3] The Commission also relied (98 FCC 2d at 1102 n.93) on its similar decision deregulating radio and the court of appeals opinion affirming it. *Deregulation of Radio*, 84 FCC 2d 968, 1007-08 (1981), *aff'd in relevant part sub nom. Office of Communication of the United Church of Christ v. FCC*, 707 F.2d 1413, 1438 (D.C. Cir. 1983).

(1971)(same). The striking absence of any justification for reexamining this question, apart from the statement that the Commission should "periodically reassess" its understanding of the term "public interest" (*Notice* ¶ 6), is a sure sign that the Commission should proceed with great caution before considering any new rules or processing guidelines, and that no new regulation could be imposed in the absence of substantial evidence of harm.[4]

The Commission does not claim that this proceeding was mandated by Congress in section 4(g) of the Cable Act of 1992, 47 U.S.C. § 614(g), which required the Commission to undertake a proceeding to determine whether stations whose programming consisted predominantly of shopping presentations served the public interest. In *Implementation of Section 4(g) of the Cable Act (Home Shopping Issues)*, 8 FCC Rcd. 5321, 5328 (1993), *pet. for recon. pending*, the Commission fulfilled that obligation and concluded that "based on a wide variety of factors, we conclude that home shopping stations are serving the public interest, convenience, and necessity. We thus find no need to require such stations to modify their program formats in order to retain or obtain renewal of their licenses." The *Notice* points to no information which came to the Commission's attention after this decision, and the Commission does not suggest that its decision on home shopping stations should be reconsidered. Thus, it is not open for the Commission to conclude in this proceeding that a station adopting a shopping format is not meeting the statutory

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[4] The burden of developing a record in support of regulation is particularly high when the government seeks to regulate the content of speech. *See infra* pp. 5-10. In *Edenfield v. Fane*, 113 S. Ct. 1792, 1800 (1993), the Court held that "[t]his burden is not satisfied by mere speculation or conjecture; rather, a governmental body seeking to sustain a restriction on commercial speech must demonstrate that the harms it recites are real and that its restriction will in fact alleviate them to a material degree."

public interest standard, much less that any commercial practices of television stations short of a predominant home shopping format would not meet that test.

II. The Commission Should Not Hobble Broadcast Television Stations With Rules Which do Not Apply to Their Competitors

Perhaps the strongest reason for the Commission to reaffirm its policy deregulating television stations' commercial practices is the asymmetrical effect new commercialization rules would have on television stations, restricting their ability to compete while leaving cable systems and other purveyors of video advertising free of regulation.

In the 1992 Cable Act, Congress found that "[a]s a result of the growth of cable television, there has been a marked shift in market share from broadcast television to cable television services."[5] It further found that as a result of cable television systems' exercise of market power, "the economic viability of free local broadcast television and its ability to originate quality local programming will be seriously jeopardized."[6] Many of the provisions of the Cable Act were intended to redress what Congress concluded was a growing regulatory imbalance favoring cable over broadcast television.[7]

The present *Notice*, however, contemplates the adoption of rules which would restrict the ability of commercial television stations to sell advertising, virtually their only source of revenue. Cable systems and other non-broadcast providers of video programming would not be subject to these rules, and would be free to sell any amount or kind of

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5 Cable Television Consumer Protection and Competition Act of 1992, P.L. No. 102-385, § 2(a)(13).

6 *Id.* § 2(a)(16).

7 In this, Congress relied on, among other things, the Commission's similar conclusions in *Competition, Rate Regulation and the Commission's Policies Relating to the Provision of Cable Television Service*, 5 FCC Rcd. 4962 (1990).

advertising that they, their advertisers, and their viewers would find desirable. Thus, adoption of new commercialization rules would create yet another regulatory imbalance between broadcast and cable television, and the regulatory balance would again tilt against broadcast stations.

Given the strong Congressional policy expressed in the Cable Act that regulatory burdens disfavoring broadcast television stations should be avoided, the Commission should refuse to consider new commercial rules applicable only to broadcast television stations. The Commission's interest in the development of a new national information "highway," and the importance of assuring a role for television stations in that new information infrastructure also counsels against any rules which would create a marketplace disadvantage for only one category of participants in the information marketplace. The adoption of any such rules should be considered only on the basis of an exceptional showing that the public interest would be harmed in the absence of new rules. Nothing approaching such a showing has been or could be made in this proceeding. The Commission should, therefore, decline to adopt new commercialization rules which would burden broadcast television stations' ability to compete in the developing video marketplace.

III. The Commission Cannot Constitutionally Impose Special Restrictions on Commercial Speech

Paragraph 8 of the *Notice* asks whether there would be any First Amendment implications were the Commission to impose restrictions on the amount or type of commercial programming that broadcast television stations may air. Clearly, the answer is yes; the Commission cannot, consistently with the First Amendment, limit the amount or type of commercial programming which can be seen on a television station merely because the

programming proposes a commercial transaction. Indeed, the Commission recognized, in rescinding its previous commercialization guidelines, that this type of restriction created significant First Amendment problems, particularly in the absence of any evidence that the marketplace was not effectively governing stations' commercialization policies. *Television Deregulation*, 98 FCC 2d at 1104.

To begin with, it is now beyond question that commercial speech is protected under the First Amendment. In *Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council*, 425 U.S. 748, 761-62 (1976), the Supreme Court put to rest the notion that speech involving commercial transactions was outside the protection of the First Amendment. Indeed, in *Bates v. State Bar of Arizona*, 433 U.S. 350, 364 (1977), the Court recognized that information about commercial transactions may be of greater interest to consumers than information about public affairs, and that "significant societal interests are served by such speech." Also, "commercial speech serves to inform the public of the availability, nature, and prices of products and services, and thus performs an indispensable role in the allocation of resources in a free enterprise system." *Id.; see Morales v. TWA*, 112 S. Ct. 2031 (1992). The Court has therefore recognized that there is a right to disseminate truthful information which consumers can use to make informed decisions about products and services. *See, e.g., Edenfield v. Fane*, 113 S. Ct. 1792 (1993); *Linmark Associates, Inc. v. Borough of Willingboro*, 431 U.S. 85 (1977).

In broadcasting, commercial speech serves a particularly valuable function — it makes other programming and public service by over-the-air television stations possible. When Congress adopted a system of privately owned broadcast stations, it perforce accepted the inclusion of commercial messages as a way to pay for that system. "Congress

intended to leave competition in the business of broadcasting where it found it, to permit a licensee who was not interfering electrically with other broadcasters to survive or succumb according to his ability to make his programs attractive to the public." *FCC v. Sanders Brothers Radio Station*, 309 U.S. 470, 475 (1940). Because Congress clearly contemplated and indeed relied on the carriage of commercial programming when it wrote the Communications Act, the Commission cannot regard commercial speech as *ipso facto* less valuable than any other category of speech on television stations.[8]

In *City of Cincinnati v. Discovery Network, Inc.*, 113 S. Ct. 1505 (1993), the Supreme Court struck down a municipal statute which discriminated against newsracks containing a publication which only proposed a commercial transaction on the ground that the speech in that publication was less valuable than the speech in traditional newspapers. Although the city claimed a legitimate interest in safety and esthetics that would be advanced by restricting the number of newsracks on public property, the Court found that this interest was not sufficiently advanced by singling out newsracks containing publications of only a particular content. The Court held that the only basis for distinguishing between the publications at issue was their content, and it reiterated that the First Amendment does not permit government to accord lesser weight to commercial speech

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[8] The 1992 Cable Act reinforces this conclusion. One of the stated objectives of the commercial must carry provisions of the Act was to prevent anticompetitive behavior of cable systems from interfering with broadcast television stations' ability to sell the advertising which supports their operations. *See* S. REP. NO. 92, 102d Cong., 1st Sess. 45 (1991); Brief for the Federal Appellees at 24-25, *Turner Broadcasting System, Inc. v. FCC*, No. 93-44 (U.S. 1993). Thus, Congress continues to rely on the carriage of commercial programming as serving the public interest. The Commission is not free to reach a different conclusion.

solely because of its content. Although the Court noted that in certain cases it had distinguished between "core" commercial speech — speech which relates only to economic interests — and speech which also provides other information, even in those cases government is not permitted to ban the expression. *See Bolger v. Youngs Drug Products*, 463 U.S. 60 (1983).[9]

Instead, commercial speech may be singled out for regulation only where the government can identify some particularized harm from the speech at issue which government is entitled to prevent. Thus, untrue or fraudulent commercial speech can be regulated because it weakens, rather than enhances, the operation of a free market. *See, e.g., Friedman v. Rogers*, 440 U.S. 1 (1979). Similarly, where the target audience is deemed less able to make informed decisions or to separate commercial from noncommercial matter, some government regulation may be justified.

None of those unique characteristics apply to commercial speech on television stations as a class. Television commercials are not aimed at a particularly vulnerable audi-

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[9] In any event, commercial programming on television stations encompasses a wide variety of commercial messages, and the Commission could not rationally base a restriction on a conclusion that television commercial messages were all "core" commercial speech. Certainly, much commercial speech on television — such as infomercials, product descriptions in home shopping presentations, and image advertisements — do far more than just propose a commercial transaction and thus do not fall within the definition of "core" commercial speech. Were the Commission to adopt regulations which were based on a distinction between the type of commercial speech presented by a television station, that would impose an enormous burden on stations and advertisers, and require the Commission to make numerous content-based judgments about the application of its regulation to particular programs with the constant potential for invidious discrimination against particular expression. *See Lakewood v. Plain Dealer Publishing Co.*, 486 U.S. 750, 769-70 (1988); *Metromedia, Inc. v. San Diego*, 453 U.S. 490, 536-37 (1981)(Brennan, J., concurring).

ence; they propose lawful transactions and include information which consumers may use to make informed economic choices; and there could be no claim that television commercial speech generally is untrue or misleading. Thus, as a class, television commercial speech is entitled to full First Amendment protection, and the Commission cannot single it out for regulation.

Although the Commission has broad authority to define what will constitute operation in the public interest for television stations, it may not do so by singling out one class of speech for particular regulation because of its content. In *R.A.V. v. City of St. Paul*, 112 S. Ct. 2538 (1992), the Supreme Court held that a "hate speech" ordinance was invalid even assuming that all of the speech subject to the ordinance could have been barred as "fighting words." Merely because the government can proscribe or regulate certain categories of speech does not, the Court held, permit it to regulate certain types of such speech because of its particular content. Thus, the Commission may define what types of programming will be deemed to serve the public interest, but in doing so, it may not proscribe or burden other constitutionally protected speech because of its content.[10]

Commercial speech on television serves a number of valuable societal interests, indeed even more so in the broadcasting context than in other areas of society. It is entitled to protection under the First Amendment from government regulation based on its

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[10] If a station demonstrates that it is serving the needs and interests of its community of license, that is all that the Commission requires, and it should not determine that the use the station makes of other parts of its broadcast day vitiates that showing merely because the Commission might prefer speech of a different content. *Cf.* Section 326 of the Communications Act, 47 U.S.C. § 326 (Commission does not have the power of censorship).

content or on fears about its impact. Regulations which limit the amount or kind of commercial programming which television stations may carry merely because they include commercial messages, therefore, would be contrary to the First Amendment.

IV. The Market Has Since 1984 Responded Exactly as the Commission Anticipated

The Commission (*Notice* ¶ 7) asks if it should reexamine the assumptions behind its *Television Deregulation* decision. Not only were those assumptions entirely correct, but changes in television stations' commercialization practices since 1984 have resulted in precisely the diversity and increased competitiveness for broadcast television stations that the Commission predicted.

The gravamen of the 1984 decision was the Commission's conclusion that "we are convinced that commercial levels will be effectively regulated by marketplace forces . . . it seems clear to us that if stations exceed the tolerance level of viewers by adding 'too many' commercials the market will regulate itself, *i.e.*, the viewers will not watch and the advertisers will not buy time." 98 FCC 2d at 1105 (footnote omitted). The Commission also believed that continued regulation of commercial loading "may impede the ability of commercial television stations to present innovative and detailed commercials." *Id.* at 1104. The developments in the television market since 1984 have confirmed the Commission's expectations.

Traditional Stations Most commercial television stations have since 1984 continued to offer a mix of information and entertainment programming similar to that which they provided to viewers before deregulation. Although commercial loading on a particu-

lar program or at a particular season may vary,[11] there is no reason to believe that the overall amount of time devoted to commercials during regular programming has changed significantly from the levels which prevailed in 1984. NAB is aware of no pattern of complaints from viewers about excessive commercials or from advertisers about "clutter." Given the growth of cable program services and the increased number of national and local commercial availabilities on those channels, it would be unlikely that television broadcasters would have reacted to this competitive impetus by further increasing the supply of advertising time. Thus, it appears that the Commission was correct in its belief that market forces would control the commercial loading on television stations.

Program Length Commercials As part of its deregulation initiatives, the Commission rescinded its long-standing rule barring long-form commercial programming. 98 FCC 2d at 1102. In the intervening years, a number of advertisers have adopted a new form of advertising, known as "infomercials," which are characteristically of program length and which include fuller descriptions and demonstrations of products than are possible during 30-second or one minute commercials. Most stations now air these long-form commercials during at least part of their broadcast week. *See* Broadcasters, Cable: The Airing of the Green, *Broadcasting & Cable*, October 25, 1993, at 24. The development

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[11] Especially during political seasons, the requirements of §§ 312(a)(7) and 315 of the Act to provide reasonable access to federal candidates and equal opportunities to all candidates for public office may require stations to increase the total number of commercial minutes during their program day to levels higher than they normally program. Notably, even under the former guidelines, periods of "high demand for political advertising" were excluded from the Commission's commercialization review. *See* § 0.283(a)(7) of the Commission's pre-1984 rules, *quoted in* 98 FCC 2d at 1102.

of these new types of commercial programming fulfills the Commission's expectation that deregulation would permit stations to provide more detailed commercial information to consumers.

Infomercials serve the public interest by providing consumers with detailed information about products and product categories. Rather than merely extolling the virtues of a product, a long-form commercial permits consumers to see it being used, permitting them to make a more informed choice about their purchases, as well as making it easier to use the product if they decide to make a purchase. This type of detailed information also gives consumers increased ability to make comparisons between the products advertised in infomercials and competing products.[12]

Home Shopping Stations Since 1984, a number of stations have adopted, during all or part of their broadcast day, a format characterized by direct sales presentations, rather than only promotions of products or services available elsewhere. As the Commission recently found, these stations — even those whose entire format consists of shopping presentations — continue to meet the public interest standard of the Act. *Implementation*

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[12] Even if some infomercials were shown to be deceptive in some manner, that would not indicate that the development of infomercials has not served the public interest. As the Commission is certainly aware, unscrupulous advertisers may practice their deceptions using any type of advertising medium, and there is nothing about long-form television commercials that is any more suspect to fraudulent practices than any other advertising availability. By the same token, the fact that telephone calls may be used to perpetrate fraud does not suggest any conclusion that the availability of universal telephone service is contrary to the public interest. The remedy for any abuses occurring in long-form advertising is in the courts and regulatory authorities like the Federal Trade Commission — as with any other type of advertising — and not by restricting the type of commercial message which television stations may carry.

of Section 4(g) of the Cable Act (Home Shopping Issues), 8 FCC Rcd. 5321 (1993), *pet. for recon. pending*. The Commission referred to examples of informational and other public service programming which home shopping stations provided in addition to shopping presentations. The Commission found that "[b]ased on the record before us, it appears that the chosen format of home shopping stations generally does not preclude them from adequately addressing the needs and interests of their communities of license." *Id.* at 5327. Since, following *FCC v. WNCN Listeners Guild*, 450 U.S. 582 (1981), the Commission has not found that a station's choice of program format was relevant to the issue of whether it served the public interest, there is no reason for the Commission to reverse that policy now and single out stations which program shopping presentations for different treatment. Instead, the Commission should recognize that the growth of shopping stations confirms its prediction that "as the number of video outlets increases, a television licensee may, in response to economic incentives, begin to direct its programming towards a narrower audience." *Television Deregulation*, 98 FCC 2d at 1092.

Moreover, home shopping formats provide other benefits to the public. The Commission has found that "home shopping stations provide an important service to viewers who either have difficulty obtaining or do not otherwise wish to purchase goods in a more traditional manner." 8 FCC Rcd. at 5327. There is no reason why these benefits should be denied consumers who do not subscribe to cable television services. Further, home shopping stations advance economic efficiency. They provide competition to other merchants and, particularly in rural areas, provide access to efficient, national distribution of consumer goods. Indeed, because home shopping services have little investment

in buildings and inventory, they are claimed to offer a more efficient distribution system than other retailers.[13]

Finally, although the number of stations offering home shopping programming has grown, many of these stations program shopping programs during only part of their broadcast day. Even the total number of stations offering shopping programs during any part of the day represents only a fraction of the broadcast television industry. There is no reason to believe that shopping formats are likely to displace the traditional advertiser-supported news and entertainment formats that have long dominated broadcast television.[14]

Since the Commission abandoned regulation of broadcast television stations' commercial practices almost ten years ago, stations and advertisers have responded with a variety of innovative types of commercial programs and presentations. These new types of commercial programming, as the Commission expected, serve the public interest in a variety of ways. They have not, however, changed the essential character of broadcast television; nor are they likely to. Instead, the flexibility which television broadcasters en-

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13 *See generally* Testimony of Barry Diller before the Subcommittee on Antitrust, Monopolies and Business Rights of the Senate Committee on the Judiciary, 103d Cong., 1st Sess. (Dec. 16, 1993).

14 In assessing the public interest benefits of home shopping formats, the Commission should also recognize that the availability of home shopping programs has enabled many new stations to be constructed to provide additional broadcast service to their communities. Many of these stations are operated by minorities, and the Commission's deregulation of television commercial practices has therefore directly advanced its policy of promoting minority ownership of broadcast stations. Changing the commercialization rules might threaten many of these stations and reduce the number of minority-owned television stations. It would take a strained construction of the public interest standard to support such a result.

joy has resulted in the development and growth of diverse services that the Commission anticipated. The Commission should not jeopardize the public interest benefits consumers have realized by embracing a new regime of commercial regulation.

V. The Commission Should Avoid the Burdensome Regulations That Renewed Commercialization Limits Would Entail

Another reason for the Commission not to impose new regulation on television stations' commercial practices is that any regulations the Commission could devise would create substantial burdens both for the Commission and licensees. Without identifying extraordinary public benefits to be derived from such regulations, the Commission could not rationally accept the burdens renewed commercialization rules would require.

In Paragraph 8 of the *Notice*, the Commission addressed this problem and requested comment on whether it should "again require television station licensees to maintain logs of their commercial programming." Were the Commission to develop broad limits on commercialization, there would be a strong temptation to require stations to maintain logs as a means of enforcing compliance. Even if the Commission did not require stations to provide it with logs, and instead based compliance on certification by stations that they have operated within any applicable rules, stations would inevitably be required to keep logs so that they would have a basis for their certifications to the Commission, and as a way to meet any challenge to their certifications.

Logging the entire program schedule of a television station is an enormous burden, whether or not it would be explicitly required. The amount of additional paperwork that licensees would have to undertake would itself be enormous, and the burden of reviewing those logs (or of adjudicating complaints of incorrect or incomplete logging) would re-

quire a substantial commitment of Commission personnel. Further, any requirement that stations report on commercial loading, whether or not supported by logs, would entangle the Commission in large numbers of sensitive, content-based decisions. The Commission would be required to define what constitutes a commercial. For example, if the advertiser is not promoting a product or service available to the public (such as corporate image advertising), should that be deemed commercial time? Similarly, should issue advertising be deemed to be commercial matter? The same question would arise with respect to political advertising.[15]

If the Commission were to conclude that it should impose restrictions on television stations' commercial practices, it should also avoid any rule or processing guideline which is based only on a simplistic determination of the number of commercial minutes in a particular hour or day. A per-hour or per-day limit on the amount of commercial time would either foreclose long-form commercials or result in a significant disincentive for stations to air them. Even if the Commission did not reinstate its ban on program-length commercials, any such time-based rule or guideline would leave stations in the position of having to strip advertising from other time periods if they choose to run a long-form commercial.

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[15] Indeed, limiting the amount of commercial time on television stations would make it more difficult for stations to use their limited amount of commercial time on political advertisements for which they can only charge their lowest unit rate. Adoption of new commercialization limits would, therefore, seem inconsistent with the goal of enhancing access by candidates to television stations. *See CBS, Inc. v. FCC*, 453 U.S. 367, 379-82 (1981).

Since those types of commercial programming provide substantial benefits to the public, the Commission should not impose rules which penalize licensees from airing them.[16]

The Commission should avoid these difficulties and burdens for both itself and licensees. It should decline to adopt any new rules or guidelines governing television stations' commercial practices.

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[16] Any rule limiting the amount of commercial time on a per-hour or per-week basis must also provide an exemption for political advertising. Even the Commission's old guidelines did not apply to periods of high political demand. *See supra* note 11. Further, if the Commission requires stations to accept long-form programs from candidates for federal office, *see National Association of Broadcasters (Request for Comment)*, 7 FCC Rcd. 6880 (1992), it should not provide a penalty for stations which comply with that requirement.

Conclusion

For the foregoing reasons, the Commission should conclude that new rules or guidelines concerning the commercial practices of broadcast television stations are not needed and it should reaffirm its 1984 decision deregulating such decisions.

Respectfully submitted,

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